

EMPLOYMENT AGREEMENT BETWEEN

THE CITY OF LOWELL

AND PHILLIP A. J. CHARRON

THIS AGREEMENT made and entered into this 15th day of September, 2020, by and between the CITY OF LOWELL, MASSACHUSETTS, acting by and through its City Manager (hereinafter referred to as the "City") and PHILLIP A. J. CHARRON (hereinafter referred to as the "Fire Chief"), pursuant to M.G.L. c.41, §108O.

WHEREAS, the CITY is desirous of securing the services of the FIRE CHIEF in the administration of the CITY's Fire Department; and WHEREAS, the FIRE CHIEF is willing to perform the duties of the position of FIRE CHIEF according to the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the covenants and undertakings contained herein, the CITY and the FIRE CHIEF agree as follows:

ARTICLE 1 - TERM

- A. This Agreement shall be effective September 28th, 2020 and shall remain in effect for three years until September 28th, 2023, unless sooner terminated as hereinafter provided.
- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the CITY to terminate the services of the FIRE CHIEF for just cause at any time.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the FIRE CHIEF to resign at any time upon thirty (30) days' written notice to the City Manager.

ARTICLE 2 - HOURS OF WORK

- A. The FIRE CHIEF agrees to devote that amount of time and energy which is reasonably necessary for the FIRE CHIEF to faithfully perform the duties and responsibilities of FIRE CHIEF under this Agreement.
- B. It is recognized that the FIRE CHIEF must devote a great deal of time outside the normal office hours to the business of the CITY, and to that end, the FIRE CHIEF shall be allowed to take compensatory time off as he and the City Manager deem appropriate during said normal office hours at such time which the FIRE CHIEF reasonably determines will adversely impact the Fire Department operations the least.

ARTICLE 3 - DUTIES

The FIRE CHIEF shall be responsible to the City Manager for the administrative control of the Fire Department for the CITY.

The FIRE CHIEF'S duties shall include, but not be limited to, the following:

- A. Supervision of the daily operations of the Fire Department.
- B. Supervision of all Fire Department personnel.
- C. Preparation and submission of the Fire Department budget to the City Manager.
- D. Submission of reports to the City Manager, either orally or in writing, when requested or required in order to ensure the proper communication between the City Manager and the Fire Department.
- E. Responsibility for all departmental expenditures, as well as the receipt of funds and property in the custody of the Fire Department.

- F. Supervision and control of all Fire Department equipment and motor vehicles belonging to or used by the Fire Department.
- G. Establishment of uniforms, equipment and vehicle specifications for the Fire Department.
- H. Supervision and control of all training programs for Fire Department personnel and the assignment of personnel to such programs.
- I. Maintaining the discipline of Fire Department personnel; the issuing of orders, rules, regulations, policies and procedures; and the assignment of shifts and duties to all Fire Department personnel.
- J. Availability for hearings before any Board of the City at which the Fire Department is required to appear and before the City Council when necessary.
- K. Responsibility for planning, organizing, directing, staffing, and coordinating of fire operations.
- L. Responsibility for communications with the public, including the media, on matters related to fire operations, and department policy.
- M. Responsibility for carrying out any additional duties set forth by City Charter, ordinance, or future ordinance.
- N. Other duties assigned by the City Manager.

ARTICLE 4 - DISCIPLINE OR DISCHARGE

The CITY may discipline or discharge the FIRE CHIEF prior to the expiration of the contract; however, any such termination shall be carried out only for just cause and only as provided herein.

- A. It is agreed that the FIRE CHIEF can be disciplined or discharged by the City Manager only for just cause, upon proper notice, and only after a hearing conducted by the City Manager at which the FIRE CHIEF and the CITY shall have the right to be represented by counsel and to present and cross-examine witnesses. The CITY recognizes its obligation to provide the FIRE CHIEF with annual performance evaluations and to adhere to the principle of progressive discipline.
- B. The FIRE CHIEF may appeal any disciplinary action or discharge to a Massachusetts court of competent jurisdiction.

ARTICLE 5 - COMPENSATION

- A. The annual base salary for the first year of this Agreement, shall be \$170,000.00 DOLLARS payable during the City's regular pay periods. The annual base salary for the second and third year of this Agreement shall be in accordance with pay increase received by City of Lowell department heads.
- B. The City Manager shall review and evaluate the performance of the FIRE CHIEF on an annual basis. Such evaluations shall be in accordance with Article 14 of this Agreement.

ARTICLE 6 - BENEFITS

The FIRE CHIEF shall receive the following fringe Benefits:

- A. Eleven (11) holidays as follows:

New Year's Day	Martin Luther King Day	Presidents Day
Patriots Day	Memorial Day	Independence Day

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Christmas Day

Holidays shall coincide with the official observance of the holiday in the Commonwealth of Massachusetts. The FIRE CHIEF shall receive his regular pay only for such holidays. It is agreed that the lump sum holiday pay shall be rolled into the FIRE CHIEF'S base pay.

- B. The FIRE CHIEF shall be entitled to thirty (30) vacation days in accordance with the City's Personnel Ordinance.
- C. With the approval of the City Manager, the FIRE CHIEF shall be granted three (3) days, with pay, for time lost from scheduled work for personal reasons each year. Three (3) days will be "no charge". These personal days may not be accrued.
- D. The FIRE CHIEF shall be granted the same bereavement leave as regular firefighters of the CITY.
- E. The FIRE CHIEF shall be eligible for six (6) sick days per year. The FIRE CHIEF shall also be eligible for sick leave buy-back, calculated at 40% of any unused sick leave, not to exceed \$20,000.00. The FIRE CHIEF is also eligible to buy-back five (5) days of sick leave per year pursuant to Ordinance provisions governing buy-back.
- F. The FIRE CHIEF shall be eligible for all health and life insurance benefits for which non-bargaining unit City employees are eligible. The City agrees to contribute towards the cost of such insurance programs in an amount or percentage not less than the highest applicable amount or percentage

available to firefighters of any rank in the Fire Department.

- G. In the event of the termination of this Agreement by either party, the FIRE CHIEF shall reimburse the City for any paid vacation leave taken in advance of credit.

ARTICLE 7 - INJURED ON DUTY

As a sworn firefighter, the FIRE CHIEF shall be entitled to injured-on-duty benefits as provided in Chapter 41, Sections 100 and 111F of the Massachusetts General Laws.

ARTICLE 8 - REDUCTION OF BENEFITS

- A. The CITY agrees that it shall not, at any time during the term of this Agreement, reduce the salary compensation or other benefits of the FIRE CHIEF except to the extent that such reduction is evenly applied across-the-board for all City employees.
- B. The FIRE CHIEF retains all currently accumulated sick leave and vacation leave.

ARTICLE 9 - AUTOMOBILE

The CITY shall provide a vehicle for use by the FIRE CHIEF and pay for all attendant operating and maintenance expenses and insurance. Said vehicle is to be used by the FIRE CHIEF in connection with the performance of his duties and responsibilities as FIRE CHIEF and for his professional growth and development. It may be used by the FIRE CHIEF for personal reasons since the FIRE CHIEF is "on call" in the event of an emergency. The vehicle shall not be used for out-of-state vacations without the permission of the City Manager. The value of said authorized personal use has been taken into account

in setting the FIRE CHIEF'S salary. The FIRE CHIEF agrees to comply with the City's Vehicle Use Policy.

ARTICLE 10 - PROFESSIONAL DEVELOPMENT

The CITY recognizes its obligations to the professional development of the FIRE CHIEF, and agrees that the FIRE CHIEF shall be given adequate opportunities to develop his skills and abilities as a firefighter administrator. Accordingly, the CITY agrees to allow the FIRE CHIEF to attend the Massachusetts, New England, and IAFC (national) Fire Chief's conferences without loss of vacation or other leave. The FIRE CHIEF will be reimbursed by the CITY for all reasonable expenses (including travel expenses) incurred while attending or traveling to the aforementioned conferences.

The CITY also agrees to budget and pay for travel and reasonable expenses of the FIRE CHIEF for short courses, institutes, and seminars that, in his and the City Manager's reasonable judgment, are necessary for his professional development.

ARTICLE 11 - DUES AND SUBSCRIPTIONS

The CITY agrees to budget and to pay an appropriate amount for the professional dues and subscriptions of the FIRE CHIEF for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the CITY including, but not limited to, NFPA, District 6 Fire Mutual Aid Association, Boarder Area Mutual Aid Association, FCAM (Fire Chief's Association of Massachusetts), IAFC (International Association of Fire Chiefs), subject to appropriation.

ARTICLE 12 - DEATH DURING TERM OF EMPLOYMENT

If the FIRE CHIEF dies during the term of his employment, the CITY shall pay to the FIRE CHIEF'S estate all the compensation which would otherwise be payable to him up to the date of the FIRE CHIEF'S death including, but not limited to, unused and earned leave, including payment for 40% of any unused sick leave not to exceed \$20,000.00.

ARTICLE 13 - PERFORMANCE EVALUATION

The City Manager shall review and evaluate the performance of the FIRE CHIEF annually, on or before October 31st of each year, in accordance with specific criteria developed jointly by the City Manager and the FIRE CHIEF. The City Manager shall provide the FIRE CHIEF with a written summary statement of her findings, and shall provide an adequate opportunity for the FIRE CHIEF to discuss the evaluation and to make improvements if the City determines it is appropriate.

ARTICLE 14 - INDEMNIFICATION

To the extent allowed under Massachusetts General Laws Chapter 258, the CITY shall defend, hold harmless and indemnify the FIRE CHIEF, and in the manner prescribed by the laws of the Commonwealth of Massachusetts, against any claim or legal action that results from the performance of the duties of the FIRE CHIEF.

To the extent allowed under Massachusetts General Laws Chapter 258, the CITY agrees that it shall defend, hold harmless and indemnify the FIRE CHIEF against any tort, professional liability claim or demand or other civil action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the FIRE CHIEF'S duties as FIRE CHIEF of the CITY.

This section shall survive any termination of this contract.

ARTICLE 15 - CONTRACT RENEWAL/TERMINATION

- A. The initial term of this Agreement shall be as defined in Article 1.A herein.
- B. In the event that this Agreement is terminated by the CITY for any reason other than just cause, criminal wrongdoing or malfeasance in office, any of which is substantiated by the evidence after a hearing as prescribed by Article 4.A therein, or in the event the FIRE CHIEF resigns following a formal suggestion by the City Manager that he resign before the expiration of the then applicable term of employment, the CITY agrees to pay the FIRE CHIEF a lump-sum severance payment equal to six (6) months' salary and benefits.
- C. In the event the FIRE CHIEF intends to retire or resign voluntarily before the natural expiration of any term of employment, then the FIRE CHIEF shall give the CITY thirty (30) days' written notice in advance unless the parties otherwise agree in writing. Provided that such notice is given, the FIRE CHIEF will be entitled to receive pay for any accrued unused leave. Such unused leave shall include, when applicable, sick, personal, and vacation days. In the case of unused sick leave, the FIRE CHIEF shall be entitled to 40% of any unused sick leave not to exceed \$20,000.00. In the case of unused vacation time, the FIRE CHIEF shall be entitled to 100% of any unused vacation time with a maximum accrual of 11 weeks, which would include, when applicable, a five (5) week vacation carryover.

ARTICLE 16 - GENERAL PROVISIONS

- A. This Agreement is a Massachusetts contract and shall be construed and governed by the laws of the Commonwealth of Massachusetts.
- B. This Agreement supersedes any and all prior written or oral agreements and constitutes the entire agreement between the CITY and the FIRE CHIEF, and no extension or modification of this Agreement shall be valid and effective, unless it shall be in writing duly executed by both of the parties.
- C. If any of the provisions of this Agreement shall in any manner conflict with any federal law or statute, or with any law or statute of the Commonwealth of Massachusetts, such provisions shall be considered null and void and shall not be binding on the parties hereto, and in such event, the remaining provisions of this Agreement shall remain in full force and effect.

ARTICLE 17 – NOTICES

Notices from the FIRE CHIEF pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed to any of the following:

- 1. CITY
City Council, c/o City Clerk
City of Lowell
375 Merrimack Street
Lowell, MA 01852
- 2. MANAGER
Eileen M. Donoghue
City Manager's Office
375 Merrimack Street
Lowell, MA 01852
- 3. CITY SOLICITOR
City Solicitor
Law Department
375 Merrimack Street
Lowell, MA 01852

unless either party hereinafter informs the other party in writing of a change of address.

Notices to the FIRE CHIEF shall be addressed as follows:

1. Phillip A. J. Charron
2. Lowell Fire Department
99 Moody Street
Lowell, MA 01852

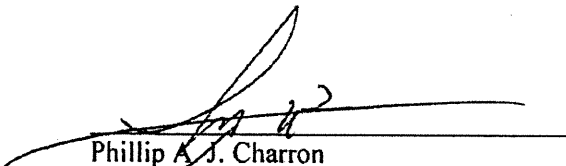
Alternately, notices required pursuant to this Agreement may be personally served.

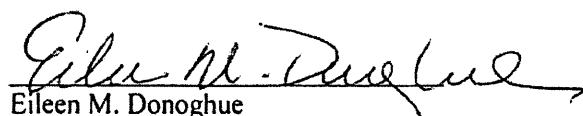
Notice shall be deemed as given as of the date of personal services or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized representatives this 15th day of September, 2020.

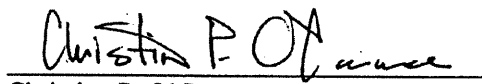
FIRE CHIEF

CITY OF LOWELL


Phillip A. J. Charron
Fire Chief


Eileen M. Donoghue
City Manager

Approved as to form:


Christine P. O'Connor
City Solicitor